IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

THURSDAY, THE 26TH JULY 2007 / 4TH SRAVANA 1929

WA.No. 2068 of 2002(B)

AGAINST THE JUDGEMENT IN OP.2306/2000 DATED 21.6.2002
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APPELLANT/2ND RESPONDENT:

THE MANAGER, MOOPLY ESTATE,
HARRISONS MALAYALAM LIMITED,
PALAPPILLY P.O.-680 304, AMBALLUR (VIA),
THIRSSUR DISTRICT.

BY ADV. SRI.E.K.NANDAKUMAR

RESPONDENTS/PETITIONER & 1ST RESPONDENT:
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1. SHAJI VARGHESE, THEVERAKATTIL,
CHEMMANTHOOR SOUTH, COLLEGE WARD,
PUNALUR-691 305, KOLLAM DISTRICT.

2. HON'BLE INDUSTRIAL TRIBUNAL,
PALAKKAD - 678 002, KERALA.

R1 BY SRI.SHAJI VARGHESE [PARTY IN PERSON]
R2 BY SR.GOVERNMENT PLEADER MR.MOHAMMED RAFIQ

THIS WRIT APPEAL HAVING BEEN FINALLY HEARD ON 26/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

H.L.DATTU, C.J. & K.T.SANKARAN, J.

W.A.No.2068 of 2002

Dated, this the 26th day of July, 2007

JUDGMENT

H.L.Dattu, C.J.

This writ appeal arises out of the order passed by the learned Single Judge in O.P.No.2306 of 2000 dated 21st June, 2002. By the impugned order the learned Single Judge has modified the award passed by the Industrial Tribunal, Palakkad in I.D.No.9 of 1997 dated 4th June, 1999 gazetted on 5.10.1999.

(2) The respondent herein was working as a probationer in the estate of the appellant. For his misconduct he was dismissed from service after holding an enquiry. The order of dismissal was the subject matter of dispute before the Industrial Tribunal in I.D.No.9 of 1997. The Tribunal after considering the entire evidence on record, has come to the conclusion that the order passed by the disciplinary authority dismissing the respondent herein is fully justified.

(3) Aggrieved by that order the workman was before this Court in O.P.No.2306 of 2000.

(4) While disposing of the original petition the learned Single Judge has modified the order passed by the Industrial Tribunal. The said order reads as under:

> "In the result, I modify the award to the extent that the dismissal will stand converted to a discharge as on the date of the said order and the management will pay a sum equal to two years salary at the last drawn rate to the workman as compensation in full and final settlement of all his claims whatsoever. Such payment should be made within eight weeks from today."

(5) Aggrieved by the order passed by the learned Single Judge, the employer is before us in this appeal.

(6) Notice of this appeal was ordered to be issued and served on the respondent workman. After receipt of the notice issued by this Court the workman has sent a letter dated 10.07.2007. The said letter reads as under:

"By Registered A/D Post

BEFORE THE HONOURABLE HIGH COURT OF KERALA

W.A.No.2068/2002B in

O.P.No.2306/2000Y

From

Shaji Varghese,
Thevarkattil
Chemmanthoor South
College Ward
Punalur-691 305
Kollam District
Kerala

1st Respondent in the above Writ Appeal

To

The Registrar
Honourable High Court of Kerala
Kochi-682 031

Sir,

Sub:- Writ Appeal No.2068/2002B against the decree dated 21.06.2002 in O.P.No.2306/2000Y, pending before this Hon:ble Court.

Ref:- Registered Notice of this Hon:ble Court dated 26.06.2007

With regard to the above mentioned subject and reference, I received the registered notice of this Hon:ble Court dated 26.06.2007 on 05.07.2007, summoning me to appear before this Hon:ble Court on 17.07.2007 for the hearing of the above Writ Appeal. I am the 1st respondent in the above Writ Appeal and represented the appeal in person before this Hon:ble Court.

With my respect to this Hon:ble Court, I hereby humbly inform that I gave up the claim over the Compensation Relief Ordered by the Hon:ble Single Judge of this Hon:ble Court in the decree dated 21.06.2002 in O.P.No.2306/2000Y which is challenged in the above Writ Appeal and it is respectfully inform that I do not intend to conduct the above Writ Appeal further for the same reason.

Thanking you,

Yours sincerely,
Sd/-
Shaji Varghese

Punalur
10.07.2007"

(7) The workman in the letter has stated that he gave up all his claims over the compensation relief ordered by this Court. In view of the letter of the respondent/workman, we need not have decided the merits or demerits of the appeal filed by the employer against the order passed by the learned Single Judge.

(8) Accordingly, the following:

Order

i) The writ appeal is allowed.

ii) The order passed by the learned Single Judge in O.P.No.2306 of 2000 dated 21st June, 2002 is set aside.

iii) The letter dated 10.07.2007 received by this Court from the respondent/workman is placed on record.

iv) The order passed by the Industrial Tribunal, Palakkad in I.D.No.9 of 1997 dated 4th June, 1999 gazetted on 5.10.1999 is confirmed.

v) Registry is directed to send a copy of the order passed by us to the respondent/workman forthwith.

vi) Liberty is reserved to the respondent/workman to approach this Court, if for any reason he wants to re-agitate the writ appeal filed by the employer, within three months from today.

(9) In view of the order passed in the writ appeal, the reliefs sought for in C.M.P.No.5353 of 2002 and C.M.P.No.1886 of 2003 need not be considered by this Court. Accordingly, the said C.M.Ps. are dismissed.

Ordered accordingly.

(**H.L.DATTU**)
CHIEF JUSTICE

(K.T.SANKARAN)
JUDGE

vns